

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

VINCENT HARRIS,)	CASE NO. 1: 11 CV 1936
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>ORDER ADOPTING</u>
)	<u>MAGISTRATE’S REPORT AND</u>
)	<u>RECOMMENDATION</u>
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge James R. Knepp, II. The Report and Recommendation (ECF # 17), issued on July 30, 2012, is hereby ADOPTED by this Court. Plaintiff sought review of the Commissioner’s decision denying his application for Disability Insurance Benefits and Supplemental Security Income under 42 U.S.C. § 405(g) and 42 U.S.C. § 1383, respectively. The Magistrate found that the ALJ’s determination was based, at least in part, on the Vocational Expert’s response to a hypothetical question that failed to accurately portray the totality of the claimant’s physical and mental impairments. Pursuant to the Sixth Circuit’s decision in *Ealy v. Commissioner of Social Security*, 594 F.3d 504 (6th Cir. 2010), which holds that a hypothetical question to a Vocational Expert that does not accurately convey the claimant’s concentration, persistence, and pace impairments, cannot

serve as substantial support for the conclusion that a claimant can perform other work, the Magistrate, recommended that the Commissioner's decision be reversed, and the case be remanded for further proceedings consistent with his Report and Recommendation. The Defendant has notified the Court that no objections will be filed. (ECF #19).

The Court has reviewed *de novo* the Report and Recommendation, *see Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp. 2d 575, 577 (N.D. Ohio 1999), and ADOPTS the Report and Recommendation in its entirety. The Commissioner's decision is reversed and remanded for further proceedings in accordance with this opinion.

IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: August 30, 2012